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RESOURCE INTL, INC. D/B/A MISHIMOTO

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA**

RESOURCE INTL, INC. D/B/A
MISHIMOTO, a Delaware corporation,

Plaintiff,

VS.

ALRADCO, LLC, a California limited liability company,

Defendant.

CASE NO.

COMPLAINT FOR INFRINGEMENT OF U.S. PATENT NO. D717,702

Resource Intl, Inc. d/b/a Mishimoto, by its attorney, for its Complaint, alleges as follows:

JURISDICTION

1. This is an action for patent infringement arising under the laws of the United States, 35 U.S.C. § 1, *et seq.* Jurisdiction in this district is proper pursuant to 28 U.S.C. § 1338(a).

VENUE

2. Venue in this judicial district is proper pursuant to 28 U.S.C. §§ 1391 and 1400(b), because upon information and belief, Defendant does business in this judicial district.

PARTIES

3. Plaintiff Resource Intl, Inc. d/b/a Mishimoto (“Mishimoto”) is a Delaware corporation with its principal place of business at 18 Boulden Road, Suite 14, New Castle, Delaware 19720.

4. Upon information and belief, Defendant Alradco, LLC (“Alradco”) is a California limited liability company with its principal place of business at 5433 Clayton Road, Suite K-205, Clayton, California 94517.

BACKGROUND

5. On Issue Date November 18, 2014, United States Patent No. D717,702 (“the ’D702 patent”) entitled “Automotive Radiator” was duly and legally issued to named inventors Kevin McCardle and Daniel Tafe, with an assignment recorded to Resource Intl, Inc., which still owns the rights, title, and interest to the ’D702 patent. A copy of the ’D702 patent is attached as Plaintiff’s Exhibit 1.

CLAIM FOR RELIEF OF INFRINGEMENT

6. Upon information and belief, Alradco makes, uses, sells, and/or offers to sell radiators for use in the automotive industry. A copy of a webpage from Alradco’s website offering to sell a “2008 - 2010 Ford 6.4 Powerstroke Aluminum Radiator” (the “Powerstroke radiator”) is attached as Plaintiff’s Exhibit 2. Alradco’s Powerstroke radiator falls within the scope of the claim of the ’D702 patent. Upon information and belief, the accused Powerstroke radiator is sold to distributors, retailers and/or customers who resell and/or use the Powerstroke radiator throughout the United States, including in the State of California, including in this judicial district.

7. Alradco’s acts in making, using, offering to sell, and/or selling, within the State of California and elsewhere in the United States the above-referenced Powerstroke radiator

1 infringes, induces others to infringe, and/or contributorily infringes the claim of the 'D702
2 patent under 35 U.S.C. § 271 without authority to do so.

3 8. Upon information and belief, Alradco's infringement of the 'D702 patent has
4 been willful, deliberate and in conscious disregard of Plaintiff's rights. By designing, making,
5 marketing, and selling Alradco's Powerstroke radiator, Alradco presumptively knew or should
6 have known that Mishimoto has a patent covering such Powerstroke radiator.
7

8 9. Mishimoto has suffered damages, including loss of sales and profits, as a result
9 of Alradco's infringing activities, and is entitled to compensation pursuant to 35 U.S.C. §§ 284
10 and 289.

11 10. As a result of Alradco's infringing activities, Mishimoto has suffered and will
12 continue to suffer irreparable injury, unless Alradco is permanently enjoined by this Court
13 pursuant to 35 U.S.C. § 283.
14

15 11. This case is exceptional and, therefore, Mishimoto is entitled to an award of its
16 expenses, costs, and attorneys' fees in accordance with 35 U.S.C. § 285 and Rule 54(d) of the
17 Federal Rules of Civil Procedure.

18 **DEMAND FOR JUDGMENT**

19 **WHEREFORE**, Mishimoto requests the following relief:
20

- 21 1. A judgment that Defendant's making, using, offering to sell, and/or selling, within the
22 State of California and elsewhere in the United States Defendant's Powerstroke radiator
23 infringes, actively induces others to infringe, and/or contributorily infringes
24 Mishimoto's 'D702 patent;
- 25 2. A judgment permanently enjoining Defendant's infringing activities pursuant to 35
26 U.S.C. § 283;
27
28

3. A judgment awarding Mishimoto the damages to which it is entitled for Defendant's willful acts of infringement complained of herein, including the greater of Defendant's total profits from the infringement pursuant to 35 U.S.C. § 289 or the trebling of the damages award pursuant to 35 U.S.C. § 284, together with pre-judgment and post-judgment interest;
4. An accounting of Defendant's profits;
5. Reasonable funds for future corrective advertising;
6. A judgment declaring that this case is exceptional and awarding Mishimoto its expenses, costs, and attorneys' fees in accordance with 35 U.S.C. § 285 and Rule 54(d) of the Federal Rules of Civil Procedure; and
7. Such other further relief as the Court deems just and proper.

Respectfully submitted,

DATED: January 6, 2015

/s/Michael J. Sullivan

Michael J. Sullivan

(SBN 264695)

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Attorney for Plaintiff

RESOURCE INTL, INC. D/B/A

MISHIMOTO

Exhibit 1

US00D717702S

(12) **United States Design Patent**
McCardle et al.

(10) **Patent No.:** **US D717,702 S**

(45) **Date of Patent:** **** Nov. 18, 2014**

(54) **AUTOMOTIVE RADIATOR**

(71) Applicants: **Kevin McCardle**, Philadelphia, PA
 (US); **Daniel Tafe**, Newark, DE (US)

(72) Inventors: **Kevin McCardle**, Philadelphia, PA
 (US); **Daniel Tafe**, Newark, DE (US)

(73) Assignee: **Resource Intl, Inc.**, New Castle, DE
 (US)

(**) Term: **14 Years**

(21) Appl. No.: **29/489,258**

(22) Filed: **Apr. 29, 2014**

(51) **LOC (10) Cl.** **12-16**

(52) **U.S. Cl.**
 USPC **D12/166**

(58) **Field of Classification Search**
 CPC F28F 9/001; F28D 1/05366; F28D 1/0435
 USPC D12/164, 165, 166; 165/67, 140, 148,
 165/149; 180/68.4; 228/183
 See application file for complete search history.

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 "2011-2014 Ford 6.7L Powerstroke Performance Aluminum Radiator, Part 2: Prototype Design . . ." Mishimoto Engineering., Aug. 29, 2014 [online], [retrieved on Sep. 21, 2014]. Retrieved from the Internet <URL: <http://engineering.mishimoto.com/2014/08/2011-2014-ford-6-7l-powerstroke-performance-aluminum-radiator-part-2-prototype-design-evaluation/>>.*

* cited by examiner

Primary Examiner — Philip S Hyder

Assistant Examiner — Darlington Ly

(74) *Attorney, Agent, or Firm* — Michael J. Sullivan

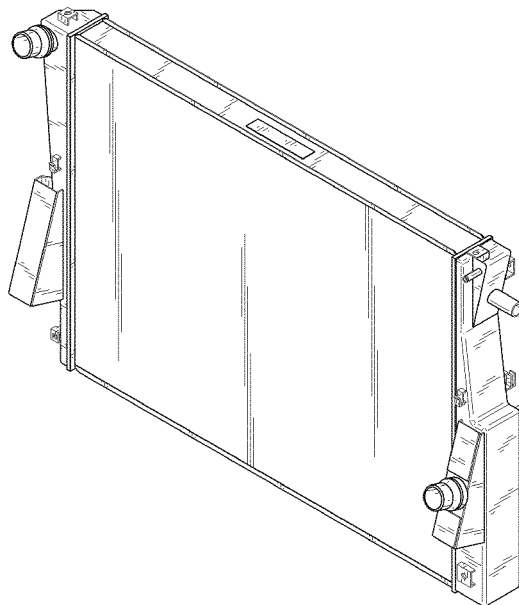
(57) **CLAIM**

The ornamental design for an automotive radiator, as shown and described.

DESCRIPTION

FIG. 1 is a perspective front view of a automotive radiator; FIG. 2 is a front elevation view of the automotive radiator; FIG. 3 is a rear elevation view of the automotive radiator; FIG. 4 is a left side elevation view of the automotive radiator; FIG. 5 is a right side elevation view of the automotive radiator; FIG. 6 is a top plan view of the automotive radiator; and, FIG. 7 is a bottom plan view of the automotive radiator. The broken lines shown in the drawings illustrate portions of the automotive radiator that forms no part of claimed design.

1 Claim, 5 Drawing Sheets



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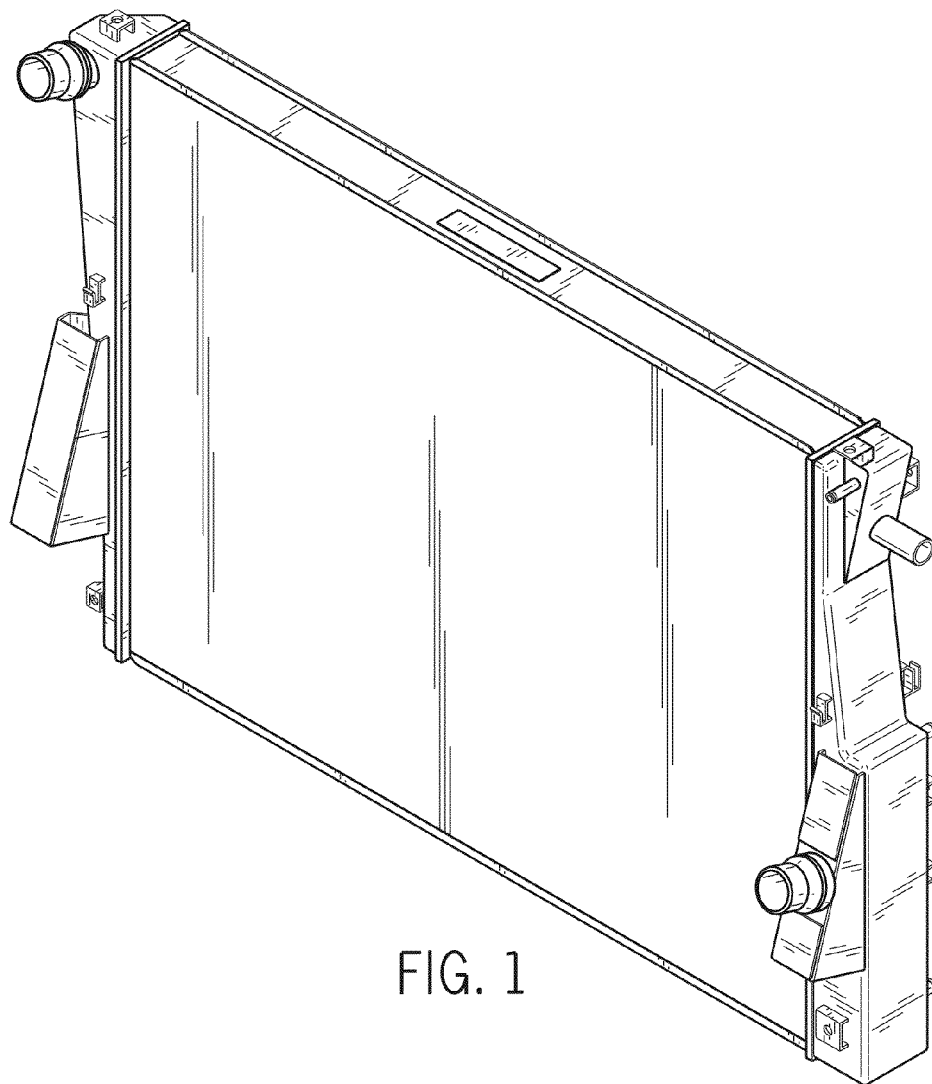


FIG. 1

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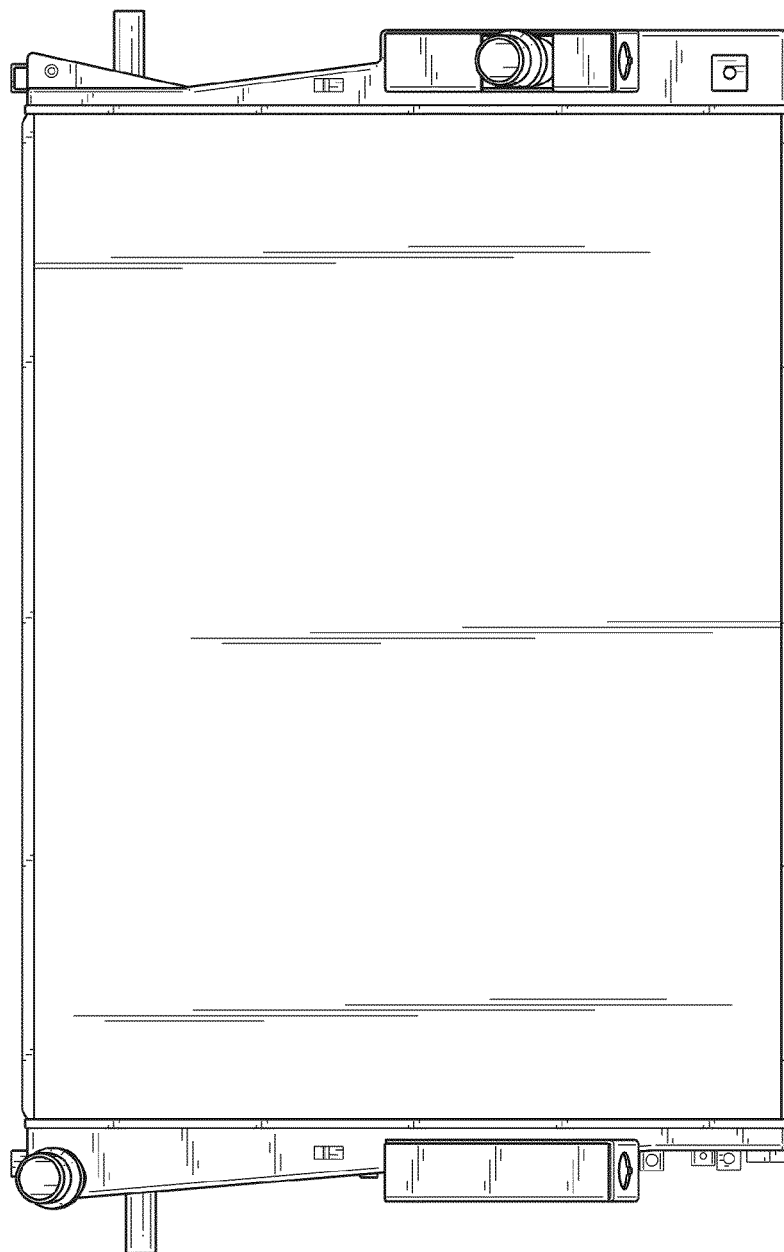


FIG. 2

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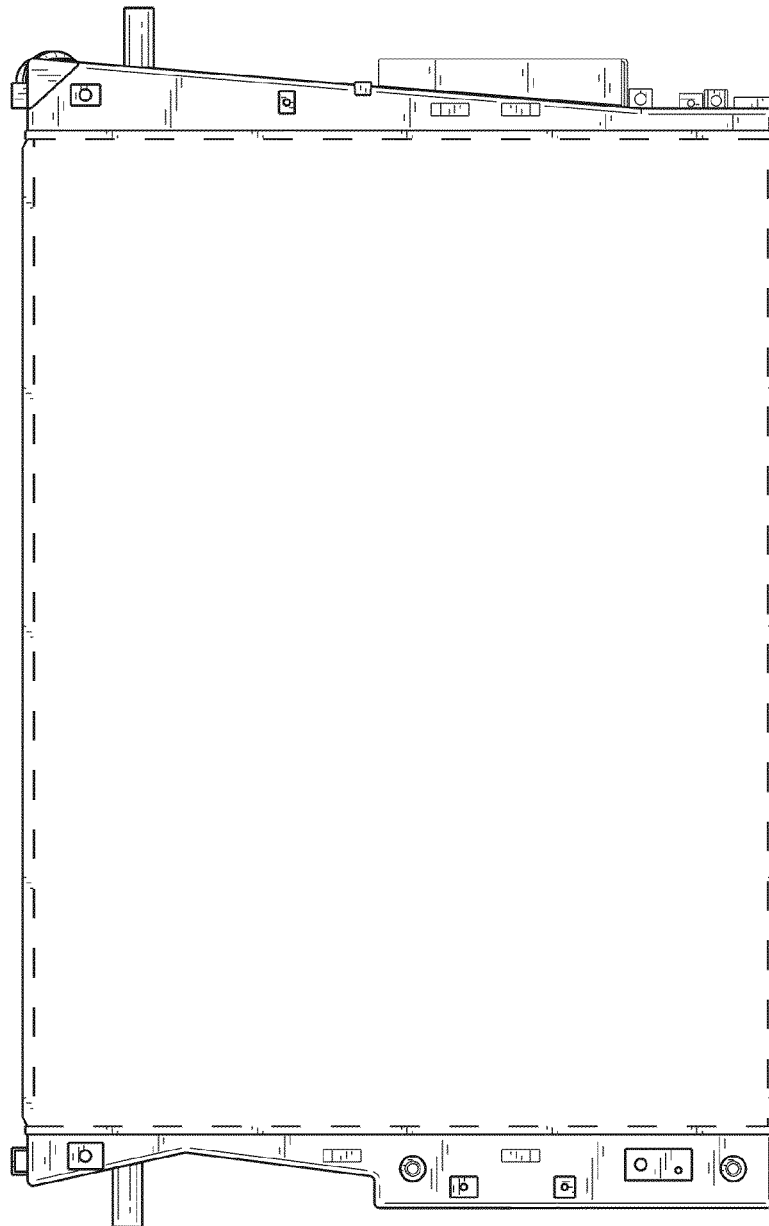


FIG. 3

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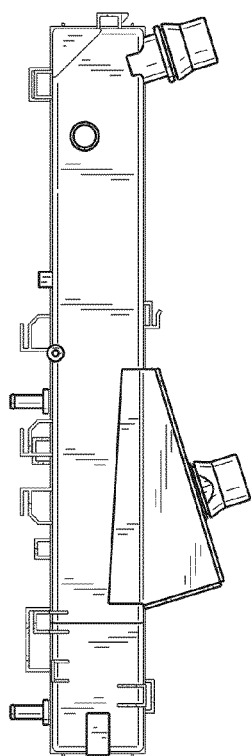


FIG. 4

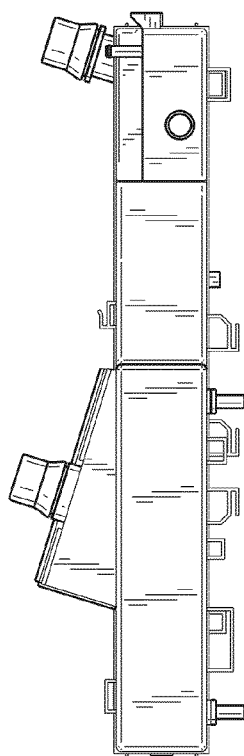


FIG. 5

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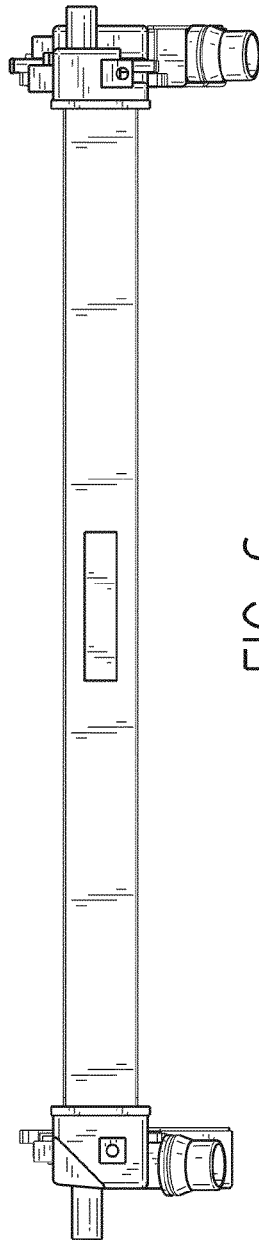


FIG. 6

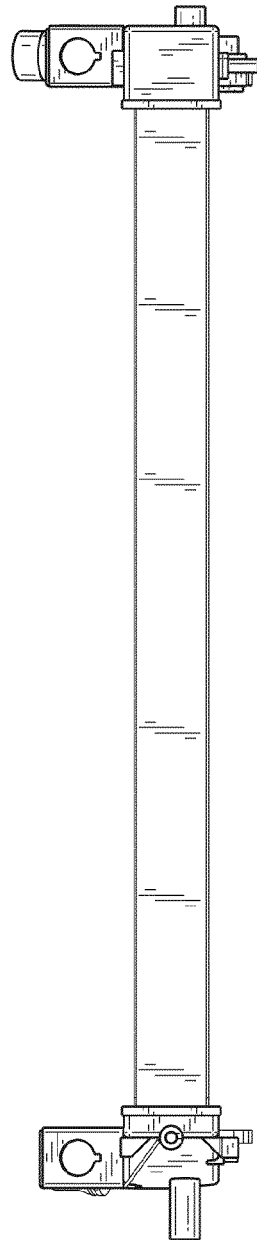


FIG. 7

Exhibit 2

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~~\$1,389.00~~ **\$1,169.00**

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Hybrid Spal Dual Fan Kit

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2008 - 2010 Ford 6.4 Powerstroke Aluminum Radiator

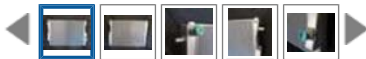


RRP: ~~\$989.00~~
Your Price: **\$889.00**
(You save \$100.00)

Brand: [Powerstroke](#)

Shipping: \$65.00 (Fixed shipping cost)

Quantity:



Product Description

The Ford 6.4 Powerstroke is incredible. Unfortunately there's a major shortfall with the cooling system. The OEM radiator has plastic end tanks which almost inevitably will leak, it seems to be just a matter of time before failure occurs. Unfortunately people have replaced their stock radiator numerous times, with the same result, a leaking radiator that renders the truck useless. Alradco is the solution to the leaking 6.4 Super Duty problem. All aluminum construction assures no more leaking end tanks. The factory unit is extremely complex design as you can tell by the pictures and we've made sure to make it right retaining all the critical OEM features. The Alradco 6.4 Powerstroke Aluminum radiator features the following:

- Made in the USA.
- OEM style fit.
- All Aluminum construction, the way it should have been made in the first place.
- Bigger than stock built in transmission cooler.
- Retained use of factory style hoses.
- Replacement aluminum radiator Ford 6.4 Powerstroke Superduty

Below is a review that was posted on one of the diesel websites about our radiator:

Well I thought I would make a new post after having it installed a little under 2 weeks. The fit and finish of this radiator is very nice and every mounting tab and bolt hole are dead on where they need to be. I was not expecting to see any drop in temps but right off the bat I noticed a 4 degree drop on coolant from my normal 200 temp rolling down the highway to 196 now rolling down the highway. I saw an even greater difference in temps when I was towing into the Sierra's up to Reno from the San Francisco area, I start at sea level and climb to about 7,000 ft. On this trip I had about a 14,000 lb trailer and at the summit of donor pass I am normally about 225-230 on coolant temp. On this trip when I reached the summit I was only at 210, thats a 15-20 degree drop from what I normally was and I was shocked that is was that much of a change.

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~~\$1,389.00~~ **\$1,169.00**

2003 - 2007 Ford 6.0 Powerstroke Aluminum Radiator
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